THE LAW COMMISSION

Second Programme, Item XVIII, Subject (2)(a)

WORKING PAPER No. 33

PERJURY AND KINDRED OFFENCES

TABLE OF CONTENTS

		Paragraph No.
I	INTRODUCTION	1
II	PRESENT LAW	2
III	THE RELATIONSHIP OF OFFENCES UNDER THE PERJURY ACT TO OTHER OFFENCES	3 - 9
IV	STATISTICAL INFORMATION	10 - 11
V	THE POLICY AND SCOPE OF A NEW ACT	12 - 22
	(1) General policy	12 - 14
	(2) Statutory offences relating to the making of false statements outside the 1911 Act	15
	(3) Offences relating to marriages, births and deaths	16 - 17
	(4) False declarations etc. to obtain registration for carrying on a vocation	18
	(5) Overlapping with offences under the Theft Act 1968 and under a new Forgery Act	19 - 20
	(6) Proposed substantive offences	21
	(7) Ancillary offences	22

		Paragraph No.
VI	SPECIAL PROBLEMS ARISING IN RELATION TO PERJURY OFFENCES	23 - 56
	(1) Problems relating to the statement founding a prosecution for perjury	23 - 27
	(a) Materiality	23 - 26
	(b) Perjury by true statements	27
	(2) The mental element in perjury and offences akin to perjury	28 - 35
	(a) The present position	28 - 31
	(b) Proposed mental element	32 - 35
	(3) Judicial proceedings: their scope and problems relating to irregularities arising therefrom	36 - 44
	(a) Scope of judicial proceedings	36 - 40
	(b) Irregularities	41 - 44
	(4) Problems relating to evidence	45 - 47
	(a) Corroboration	45 - 46
	(b) The self-contradicting witness	47
	(5) Compensation for victims of perjury	48
	(6) Miscellaneous problems	49 - 56
VII	JURISDICTION	57 - 59
VIII	PENALTIES	60 - 61
IX	REPEAL POLICY	62 - 66
X	PROVISIONAL PROPOSALS	67 - 68
XI	SPECIAL QUESTIONS FOR CONSIDERATION	69
	APPENDIX: EXAMPLES OF PERJURY AND KINDRED OFFENCES IN CURRENT LEGISLATION WITH MAXIMUM PENALTIES	

THE LAW COMMISSION

SECOND PROGRAMME - ITEM XVIII, SUBJECT 2(a)

PERJURY AND KINDRED OFFENCES

I INTRODUCTION

1. The present law of perjury and subornation of perjury[1] together with certain other offences relating to the making of false statements is to be found principally in the Perjury Act 1911, which was enacted to consolidate the law relating to perjury and kindred offences. This Act did not refer to perjury at common law, but the significance of this may well be, not that the common law offence was being retained, but that, on the authorities, it was doubted whether there was any such common law offence.[2] In any event the precise extent and the essentials of the offence in early times have always been matters of some obscurity and it is unnecessary to trace the law further back than the Perjury Act 1728. This Act was confined to perjury in judicial proceedings and provided for the punishment of perjury or subornation of perjury with up to seven years' imprisonment. Parliament gradually extended the offence to include the telling of a falsehood on oath in various circumstances outside the scope of judicial proceedings and it is noteworthy that the 1911 Act repealed provisions dealing with perjury in some 130 Acts of Parliament. So far as the present law is concerned there is no need to consider any legislation earlier than the 1911 Act.[3]

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1. The procuring of a person to commit perjury where that person actually commits that offence.

2. Stephen, History of the Criminal Law of England Vol.3, pp. 240-249. Holdsworth, A History of English Law, Vol.IV, pp. 515-519.

3. Except in relation to repeals: see para. 56 n.88 as to s.6 of the Piracy Act 1850 and s.22 of the Slave Trade Act 1873. See also para. 66.

II PRESENT LAW

2. The Perjury Act 1911 was enacted to consolidate and simplify the law relating to perjury and kindred offences. The Act does not extend to Scotland or Northern Ireland which have their own corresponding statutes, the False Oaths (Scotland) Act 1933[4] and the Perjury Act (Northern Ireland) 1946. The offences under the 1911 Act are summarised in the following pages under the general headings of Substantive and Ancillary Offences. Procedural and other miscellaneous provisions of the Act are dealt with in paragraphs 52-56.

(A) Substantive Offences

(i) Section 1(1) creates the principal offence of perjury in judicial proceedings, punishable on indictment with up to seven years' imprisonment. The offence involves the wilful making of a statement in a judicial proceeding by a person lawfully sworn as a witness or interpreter which that person knows to be false or does not believe to be true;[5] and by virtue of section 1(5) the offence covers such statements made by persons lawfully sworn under the authority of an Act of Parliament (a) in any other part of H.M.'s dominions or (b) before a British tribunal or officer in a foreign country.

(ii) Section 2(1) penalises with up to seven years' imprisonment the wilful making of a statement on oath otherwise than in judicial proceedings where the person making it knows it to be false or does not believe it to be true; and

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4. Although, in practice, perjury is usually dealt with accordi to the common law of Scotland - see Gordon, Criminal Law p.9

5. Extended by the Criminal Justice Act 1967, s.89 to false statements made for the purposes of ss. 2 and 9 of that Act in respect of which the maximum penalty is imprisonment for two years; not triable summarily.

section 2(2) similarly penalises the wilful using of a false affidavit for the purposes of the Bills of Sale Act 1878.[6]

(iii) Section 3(1) punishes the knowing and wilful making of a false statement, oath or declaration with reference to marriage with up to seven years' imprisonment on indictment and £100 fine on summary prosecution. There is a special time limit of eighteen months in relation to prosecution on indictment[7] and of twelve months in relation to summary prosecutions.[8]

(iv) Section 4(1) punishes the wilful making of a false statement, certificate or declaration with reference to births or deaths,[9] on indictment with a maximum of seven years' imprisonment (with a time limit of three years) and summarily with a maximum fine of £100 (with a time limit of twelve months).[8]

(v) Section 5 creates three offences which involve knowingly and wilfully making false statements not on oath. The statements are those made in -

(a) statutory declarations (section 5(a)).[10] This offence is triable summarily with the consent of the accused by virtue of

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6. This replaces a provision of the Act of 1878 repealed by the 1911 Act.

7. See s.3(2) and para. 50 below.

8. See the Criminal Justice Act 1925, s.28(3) and para. 50 n.79 below.

9. The offence in s.4(1)(d) (making a false statement with intent to have the same inserted in a register of births and deaths) does not require it to be done "wilfully": see further, para. 28. The offence in s.4(1)(c) of wilfully making a false statement as to the body of a deceased person in a coffin also seems to be anomalous in that it does not necessarily relate to any statutory requirement.

10. By s.15(2), this means a declaration made by virtue of the Statutory Declarations Act 1835 or any Act or instrument applying or extending its provisions.

the Magistrates' Courts Act 1952, section 19;

(b) documents, etc. authorised or required by public general Acts (section 5(b));

(c) oral declarations or answers required by, under, or in pursuance of general Acts (section 5(c)).[11]

In all cases the offences are punishable on indictment with a maximum of two years' imprisonment and/or a fine. There are substantial overlaps between offences under section 5(b) and (c) and other statutory offences relating to false statements. This is further discussed in part III of this Paper.

(vi) Section 6 punishes with up to twelve months' imprisonment and/or a fine anyone who wilfully makes a declaration, certificate or representation knowing it to be false or fraudulent in order to obtain registration under an Act of Parliament as a person qualified to practise a vocation.[12]

(B) Ancillary Offences

(vii) Section 7(1) deals with aiding, abetting or suborning a person to commit an offence under the Act and section 7(2) with inciting or attempting to procure or suborn a person to commit an offence under the Act. Offences under both sub-sections are triable and punishable in the same way as the principal offence.

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11. Offences under the Local Government Act 1933, s.225(2) and the Administration of Estates Act 1925, s.36(6) are deemed to be committed under s.5 of the 1911 Act.

12. There are overlaps with this section, e.g. the Architects Registration Act 1931, s.12 (summarily punishable; fine £50) and the Nurses Act 1957, s.27 (fine £100 on indictment only).

III THE RELATIONSHIP OF OFFENCES UNDER THE PERJURY ACT TO OTHER OFFENCES

3. The essence of perjury is that a person upon whom the law imposes a positive duty to speak the truth because he places or finds himself in a position where his statements, if false, would tend to subvert social institutions, as distinct from private rights, is liable to penalties if he deliberately tells lies. Thus lies told in judicial proceedings may prejudice the due administration of justice; lies relating to births, marriages and deaths may seriously affect the status of third parties and impair the validity of official records; and false information furnished in accordance with statutory requirements or authorisation may undermine the proper and efficient operation of the legislative scheme which Parliament has enacted.

4. There will often, however, be cases where an offender's conduct will not only cause the harm referred to above, but will also be directed towards achieving a further purpose. For example, a false statement attracting the sanctions of the law against perjury may also be aimed at obtaining for its maker some pecuniary or other advantage, or inflicting upon a third party some detriment or injury. Thus the offender's conduct may also fall within some other offence-creating provision of the law, attracting to it the penalties of that provision. There are three situations in which there appears to be such an overlap and they are discussed in the following paragraphs.

5. The first situation concerns offences, the essence of which is the same as that of the offences in the 1911 Act - that is, they involve the making of false statements which may undermine the efficient operation of a legislative scheme. Examples of such offences may be found in statutes dealing with the registration of births and deaths.[13] There seems to be no case for allowing such duplication to continue.

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13. See Appendix, part 8.

6. The second situation concerns offences which may affect social institutions in a manner similar to perjury but where the means used is not the making of a false statement. For example, perjury itself aims to pervert the course of justice, but the common law misdemeanour of perverting or obstructing the course of justice also includes the fabrication or knowing use of false documents to be given in evidence and the inducement of a witness to give false or withhold true evidence. Conduct of this kind may sometimes be very similar to the commission of or attempt to commit offences under section 7 of the 1911 Act and, at least in the case of fabrication of false documerts, may also amount almost to forgery. Offences covering this situation, however, do not overlap the substantive offences contained in the 1911 Act.

7. The third situation concerns a large number of offences, many of them statutory, which incidentally may affect social institutions in a manner similar to perjury, but the commission of which is aimed primarily at securing some personal advantage, whether pecuniary or otherwise. Some of these offences are outlined in the following sub-paragraphs -

(a) Cheating and conspiracy to cheat. Section 32(1) of the Theft Act 1968 abolished the common law offence of cheating except as regards offences relating to the public revenue. One of the common forms of cheating the revenue is the making of false statements pursuant to the requirements of a general Act. Since this is embraced within section 5(b) of the 1911 Act we see no need for its retention as an offence at common law. There are some types of cheating the revenue, such as making a false return relating to National Insurance contributions, which it would be appropriate to include in a revised section 5, and others, such as altering a mileometer in connection with an expenses claim form, which would constitute forgery if forgery were to be extended to tampering with recording devices.[14]

14. See Archbold 37th ed. para. 3549-3550 and the Law Commission Working Paper No.26 on Forgery.

(b) Forgery and forgery-type offences. The falsification of records of various kinds authorised or required by public general statutes may, according to the circumstances, approach the commission of an offence under section 5(b) of the 1911 Act (where such a record is false by omission) or a forgery-type offence (where it is false by insertion or alteration).[15]

(c) Theft Act 1968 sections 15 and 16. Where a false statement is knowingly made dishonestly to obtain property or a pecuniary advantage (within the limited meaning in the latter case of section 16 of the Theft Act 1968) there may be an obtaining or an attempt to obtain under the Theft Act. Where the object of such a false statement is to obtain benefit or reliefs of a financial character under the provisions of legislation of general application it may constitute an offence both under section 16 of the 1968 Act and under section 5 of the Perjury Act 1911. Where, however, the object of a false statement is to obtain advantages otherwise than of a financial character under such provisions, section 16 of the Theft Act would not be relevant.[16]

(d) Other statutory offences. There is a multitude of statutory offences relating to the making of false statements to obtain advantages, almost all to be found in legislation enacted after 1911. Those which most frequently come before the courts are -

(i) Offences of making false statements and issuing false documents under sections 235 and 236 of the Road Traffic Act 1960 (as amended by the Road Traffic Act 1962 and the Road Safety Act 1967). These are

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15. See para. 20.
16. See para. 19.

summary offences punishable by a fine of up to £100 and/or six months' imprisonment, but, subject to consideration of the mental element required by these provisions, they could clearly be charged under section 5 of the Perjury Act 1911;[17] and

(ii) Offences of making false statements under social security legislation.[18] Again, these could probably also be charged under section 5.

8. Special statutory provisions of the type referred to in sub-paragraph (d) above are now created very frequently.[19] We believe that the growth in number of such statutory offences may in part be attributable to the terms in which section 5 of the 1911 Act was passed into law.[20] Another reason may be the need for summary offences of this type, for it will be observed that many of the false statement offences created after 1911 are summary offences whilst persons committing offences under section 5(b) and (c) of the 1911 Act may be proceeded against only on indictment.

9. Section 5 of the 1911 Act as enacted evidently has not prevented the subsequent creation of statutory offences of making false statements. We think that the policy of a new Act should aim at avoiding this proliferation and provide for the

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17. See s.16(3) of the 1911 Act and para. 56.

18. e.g. National Assistance Act 1948, s.52(1) as amended by the Ministry of Social Security Act 1966, s.39(3)(summary, 3 months and/or £100): Family Allowances Act 1965, s.9(a) (summary, 3 months and/or £50): Ministry of Social Security Act 1966, s.29 (summary, 3 months and/or £100).

19. An entirely random sample from the 1968 Public Acts (cc.61-77) disclosed (i) Gaming Act, s.23(6) - summary, £200: (ii) Medicines Act, s.45(6) and (8) - summary £400, on indictment 2 years and/or fine: (iii) Sea Fisheries Act, s.3(1) - summary £400: (iv) Transport Act 1968, s.83 - summary, £200, on indictment 2 years. For further recent examples, see Appendix, parts 5, 13 and 14.

20. Hansard, 5th Series Vol. 7, Col. 479 (Lords). See further, para. 15.

creation of a single statutory offence of making false statements, replacing the special provisions created by other statutes dealing with this offence. We consider this further in our discussion of the policy and scope of a new Perjury Act.[21]

IV STATISTICAL INFORMATION

10. The following statistics relevant to perjury and kindred offences are taken as to Tables A to D from the 1969 Annual Criminal Statistics[22] and as to Tables E and F from the last issued statistics on motoring offences.[23]

TABLE A

Offences under the Perjury Act 1911 compared with other Indictable Offences

Numbers Found Guilty - all courts

All indictable offences	304,070
Frauds and unauthorised taking and handling of goods[24]	267,827
Malicious damage (including arson)	1,409
Forgery and uttering	3,196
Perjury	102 [25]

21. See Part V.

22. Criminal Statistics England and Wales (1969) Cmnd. 4398. Subject to the changed pattern of disposals arising from the introduction of suspended sentences, the picture presented by the 1968 and 1969 statistics with regard to perjury does not depart significantly from the pattern of offences and disposals over the last 7 years.

23. Return dated 22nd July 1970 of 1969 offences.

24. Including all offences under the Theft Act 1968, coming into operation on 1 January 1969.

25. This figure is analysed in Table B.

TABLE B

Sex and Age Groups of Offenders found Guilty of Perjury							
	Sex	14-17	17-21	21-25	25-30	30+	Total
By Magistrates[26]	M	5	5	4	4	15	33
	F	-	7	-	-	2	9
On Indictment	M	-	9	9	14	22	54
	F	-	1	1	1	3	6

TABLE C

Disposal of Offenders Found Guilty of Perjury					
	Sex	Non-Custodial	Fine	Custodial	Suspended Sentence
By Magistrates	M	2	25	2	4
	F	4	5	-	-
On Indictment	M	3	14	25	12
	F	3	-	-	3

TABLE D

Duration of Custodial Sentences Imposed[a]						
	Up to 6 months	6-12 months	1-2 years	2-3 years	3-4 years	Total
On Indictment	5[b]	11	6[c]	2	1	25

(a) No sentence exceeding 4 years was imposed.
(b) Includes 3 cases of detention centre.
(c) Includes 1 case of borstal training.

26. Offences under ss. 3 and 4 of the 1911 Act are triable summarily as are, with the consent of the accused, offences under s.5(a) by virtue of s.19 and Schedule I para. 9 of the Magistrates' Courts Act 1952.

TABLE E

Offences akin to Perjury prosecuted to conviction under the Road Traffic Acts. (1969 Return of Offences relating to Motor Vehicles)		
Description of Offence	Trial by Magistrates	Trial on Indictment
Issuing a false test certificate	72	-
Making a false statement to obtain a licence	563	17
	635	17

TABLE F

Disposal of Offenders shown in Table E					
	Non-Custodial	Fine	Custodial	Suspended Sentence	Total
By Magistrates	27	504	40	24	595
On Indictment	2	2	9	4	17
The difference between the totals given for magistrates in Tables E and F results from the 40 cases which are described in the Return as "otherwise disposed of".					

11. These figures seem to indicate that -

(a) perjury offences form a very small proportion of indictable offences as a whole;

(b) offences akin to perjury prosecuted under other legislation, of which offences under the Road

Traffic Acts form an example, are considerably greater in number than offences under the 1911 Act; and their predominance justifies a review of the 1911 Act with the aim of simplifying the legislative pattern by bringing as many of them as possible into a single statute;

(c) in relation to both perjury and offences akin to perjury under the Road Traffic Acts, non-custodial sentences (including suspended sentences of imprisonment) predominate;

(d) long sentences of imprisonment are rare.

V THE POLICY AND SCOPE OF A NEW PERJURY ACT

(1) General policy

12. The essential purpose of perjury, as we have indicated,[27] is to impose the sanction of the criminal law upon those who tell lies when they are required to tell the truth, because failure to tell the truth in such instances has a tendency to subvert social institutions or frustrate legislative aims. The most serious offence is, of course, perjury in judicial proceedings, commission of which in the course of criminal proceedings may lead directly to the conviction and imprisonment of individuals who might otherwise be acquitted of the offence charged. We believe that the aforementioned purpose must be borne in mind in determining the basic approach to the content of a new Perjury Act.

13. It is true that certain other offences and, in particular, the common law misdemeanour of perverting or obstructing the course of justice, have in common with perjury the aim of prejudicing the administration of justice.[28] Accordingly, it

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27. See para. 3.

28. See para. 6.

might be contended that perjury in judicial proceedings is merely a particular method of committing the common law misdemeanour and that the policy of legislation designed to replace the 1911 Act should aim to cover all "interference with justice" offences.[29] But we would not accept the validity of this contention. We do not consider it desirable to extend the ambit of a new Act to offences which, although they may have in common with perjury the protection of the administration of justice, do not involve one of the essential elements of perjury, namely, the telling of lies. Conversely, there are many offences relating to the making of false statements[30] which do not involve interference with the administration of justice, but which we think should come within the ambit of a new Act because they relate to requirements essential to the operation of a statutory scheme. It would not, however, be appropriate to deal with the latter category of offences if the Act were to be directed to the law governing offences against the administration of justice.

14. A new Act with the scope we have indicated as desirable may result in some overlap between offences dealt with by other Acts, such as the Theft Act or Forgery Act, but at the present stage of our work in the examination of specific offences we would not necessarily consider this undesirable. We consider this aspect in more detail hereafter.

(2) Statutory offences relating to the making of false statements outside the 1911 Act

15. We have referred[31] to the multitude of offences possessing fundamentally the same characteristics as those covered by one or other of the subsections of section 5 of the 1911 Act. Their existence, as we have indicated, may in part be attributable to

29. See also para. 24 of the 6th Report of the Criminal Law Revision Committee on Perjury and Attendance of Witnesses (1964) Cmnd. 2465, wherein the Committee rejected revision of the law of perjury to deal with the self-contradicting witness on whom pressure has been put to go back on his evidence. See further, para. 47.

30. See para. 7.

31. See para. 7(d).

the form in which section 5 was enacted. The section (as amended) reads as follows -

> "If any person knowingly and wilfully makes (otherwise than on oath) a statement false in a material particular, and the statement is made -
>
> [(a) in a statutory declaration; or]
>
> (b) in an abstract, account, balance sheet, book, certificate, return, or other document which he is authorised or required to make, attest, or verify, by any public general Act of Parliament for the time being in force; or
>
> (c) in any oral declaration or oral answer which he is required to make by, under, or in pursuance of any public general Act of Parliament for the time being in force,
>
> he shall be guilty of a misdemeanour and shall be liable on conviction thereof on indictment to imprisonment for any term not exceeding two years or to a fine or to both such imprisonment and fine."

Thus, section 5(b) does not specifically cover declarations etc. which are authorised, or required under or in pursuance of (as opposed to "by") any public general Act. Similarly, section 5(c) is limited to oral statements required by, under, or in pursuance of any public general Act[32] and does not extend to such statements which are merely authorised. The language of section 5 may usefully be compared with that of section 2 of the False Oaths (Scotland) Act 1933 which does not draw these distinctions and which, we believe, has not given rise to any difficulty. Similarly, the Perjury Act (Northern Ireland) 1946 contains a definition of "enactment" in its interpretation section (section 15(2)) which has the effect of bringing the law of Northern Ireland very close to the law of Scotland in this respect; and this also, we understand, has produced no problem in practice. We do not think that there can now be any valid objection to widening the ambit of section 5(b) and (c) of the Act to include all statements etc. authorised or required by, under, or in pursuance of any public general statute,

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32. See R. v. Mailey [1957] Crim. L.R. 328.

although, in so far as it replaces section 5(b) and (c), we see no grounds for extending such an offence beyond these limits.[33] It may be objected that many of the offences at present outside the 1911 Act are only triable summarily and that their penalties are on a lower scale than offences under the 1911 Act, but, in our view, such objections are not of sufficient importance to prevent replacement of these offences by the widely-drafted offence which we propose.

(3) Offences relating to marriage, births and deaths

16. Section 3 of the 1911 Act includes offences of knowingly or wilfully making a false declaration required under an Act of Parliament relating to marriage. A preliminary declaration in some form is a prerequisite to all marriages,[34] except those celebrated -

(a) on the authority of a special licence of the Archbishop of Canterbury; and

(b) after banns if the clergyman has dispensed with the notice by the parties stating their names and addresses.

Except in the case of marriages in the Church of England or according to the rites of Jews or Quakers, a declaration has to be made during the ceremony. All required declarations, written or oral, relevant to marriage appear to be subject to section 3 of the 1911 Act, excepting the notice before banns under section 8 of the Marriage Act 1949, which, if required, is required by the clergyman and not by the statute. If a written declaration relating to marriage is required (or authorised) by statute, it will also be subject to section 5(b) of the 1911 Act and, if the declaration required is oral, it will also be subject to section 5(c) of the 1911 Act. An examination of the various offences in section 4 of the 1911 Act shows that the false statements, certificates etc., both oral and written, which

33. See para. 38 as to a possible extension of the offence.

34. For the requirement of declarations see ss. 16, 27 and 28 of the Marriage Act 1949, and see the Marriage (Registrar General's Licence) Act 1970.

are penalised by that section, also appear to be subject to one or other of the two aforementioned subsections of section 5.[35] In our view, false statements made and information given in these contexts fall properly within the scope of a reformed Perjury Act and at first sight the foregoing analysis appears to invite the elimination of the overlap between offences under sections 3 and 4 and section 5 of the 1911 Act by including the existing sections 3 and 4 within a more comprehensive offence framed on the lines of section 5.

17. Whilst the rationalisation suggested in the preceding paragraph has the attraction of simplicity, we believe that its adoption would overlook the social consequences of the offences with which sections 3 and 4 are concerned. The statements penalised by these sections may have serious and permanent effects upon the status of third parties and may also be used as a means of concealing other criminal offences such as bigamy. This directly damaging effect on the status of others distinguishes these offences from offences under section 5 or similar offences under other legislation. Thus, making a false statement under the Road Traffic Act 1960 to obtain a driving licence may, if such a licence is obtained, enable an unqualified person to drive, and so perhaps endanger others, but the making of the false statement cannot itself directly operate to the detriment of others. This, in our view, justifies our proposal that the offences at present in sections 3 and 4 should, whatever form they may take in a revised Perjury Act,[36] be liable to higher penalties than those imposed for other false statement offences and that they should, therefore, be given separate treatment in new legislation.

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35. Except possibly the offence of making a false statement as to a body in a coffin, which is not necessarily related to any statutory requirement - see para. 2 n.9.

36. The Marriage Law of England and Wales is currently under examination by a Joint Working Party of the Law Commission and the Registrar-General's Department and its deliberations may result in changes in the requirements of the present law as to declarations and the furnishing of particulars precedent to marriage.

(4) False declarations etc, to obtain registration for carrying on a vocation

18. We have drawn attention to the existence of the overlap between section 6 of the 1911 Act and other statutory provisions.[37] We think it desirable and practicable to eliminate this overlap and we propose that this should be achieved by including these offences presently caught by section 6 of the 1911 Act, and by the overlapping provisions of other legislation, within a revised "false statement" section corresponding to section 5.

(5) Overlapping with offences under the Theft Act 1968 and under a new Forgery Act

19. Not only is there often some relationship between perjury and dishonesty offences, but there may be cases where a false statement contrary to section 5 of the Act of 1911 or other legislation penalising false statements may also constitute the offence of obtaining property or pecuniary advantage by deception, contrary to section 15 or 16 of the Theft Act, or an attempt to commit such an offence. But that Act treats false statements not from the viewpoint of perjury, that is, the legal duty in certain circumstances not to tell lies, but from the point of view of the result actual or contemplated - the gaining or seeking of property or a pecuniary advantage. Such cases may cover many of the more serious offences of making false statements and attract maximum penalties well in excess of those presently provided either by section 5 of the 1911 Act or by other statutory provisions. It seems to us legitimate to preserve a difference in classification between, on the one hand, the wilful making of false statements which have a public purpose, and, on the other, the intention dishonestly to acquire property or pecuniary advantage by false statements, where the statements have a private end in view. Any resultant overlapping of offences seems to us to be unobjectionable.

20. Similar but more limited instances of overlapping may also occur between perjury offences and a reformed Forgery Act - for example an affidavit made under another person's name. The

37. See para. 2 n.12.

conclusion of our consultations upon the Law Commission's Working Paper No.26 on forgery will provide us with an opportunity to consider this question more closely.

(6) Proposed substantive offences

21. Our observations under the general heading of the scope and policy of a new Perjury Act lead us to propose the replacement of the existing offences under the 1911 Act by three new substantive offences. These are -

(a) Perjury in judicial proceedings, corresponding to section 1 of 1911 Act. This is the most distinctive offence of those considered and, perhaps on this ground alone, requires separate treatment. But it also seems to us to be the most serious of all perjury offences, not only because it tends to undermine the proper administration of justice, but because it may result directly in the conviction of innocent individuals. It should therefore be distinguished by a more severe penalty.

(b) False statements or representations in relation to births, marriages and deaths, replacing sections 3 and 4 of the 1911 Act. These may have serious consequences in relation to the status of third parties and may also be used as a means of concealing other criminal offences. Their public importance therefore justifies their separation from the third class of offences (class (c)) for the purpose of the imposition of penalties.

(c) False statements made on oath otherwise than in judicial proceedings, in a statutory declaration, or in any oral or written statement required or authorised by, under, or in pursuance of an Act of Parliament. This would replace sections 2, 5 and 6 of the 1911 Act and other offences of

making false statements. Offences of this class merit (and under the present law are normally accorded)[38] more lenient penalties than those classified under (a) and (b) above. There may, of course, be cases where, by means of false statements of this class, property or pecuniary advantages have been obtained or sought to be obtained, but such instances may be proceeded against under the Theft Act 1968 under which more serious penalties than those we propose in a new Act[39] would be attracted.

(7) Ancillary Offences

22. These are at present contained in section 7 of the 1911 Act. With regard to aiding and abetting, counselling and procuring offences under the Perjury Act, section 7(1) appears to add nothing to section 8 of the Accessories and Abettors Act 1861. But section 7(1) also deals with subornation of perjury, a misdemeanour occurring where the person procured to commit perjury actually does so. Perjury and subornation of perjury were both punishable with up to seven years' imprisonment under section 2 of the Perjury Act 1728, and it seems that the only effect of the present subsection in relation to subornation is to maintain this provision in the law by attracting to the offence the statutory penalties and procedure of the Perjury Act. Section 7(2) deals with incitements or attempts to procure or suborn perjury, which again are misdemeanours. We do not propose any change in the substance of the law relating to the offences covered by section 7 of the 1911 Act.

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38. Although the maximum penalty under s.2 is the same as that provided by ss. 3 and 4, cases where oaths are required other than in judicial proceedings (i.e. in offences under s.2(1)) are, except in the case of promissory oaths, very limited in number and importance - e.g. (i) estate duty affidavits by persons other than personal representatives (Customs and Inland Revenue Act 1881, s.39 and Finance Act 1894, s.8(4) and (14)): (ii) affidavits under the Deeds of Arrangement Act 1914, s.5(1): (iii) affidavit as an alternative to a statutory declaration under R.S.C. Order 63 Rule 7 (verification of execution of power of attorney).

39. See para. 61.

VI SPECIAL PROBLEMS ARISING IN RELATION TO PERJURY OFFENCES

(1) Problems relating to the statement founding a prosecution for perjury

(a) Materiality

23. Under section 1 of the 1911 Act the statement must be material and under subsection (6) the materiality is a question of law to be determined by the court of trial. The materiality of a statement is relevant also in offences under sections 2(1) and 5, but in these cases there is no provision specifying whether materiality is a question of law or fact.

24. In our Working Paper on forgery[40] we have provisionally proposed the elimination of the element of materiality from forgery offences because it seems to us to be a complicating factor serving no useful function in relation to an offence the essential element in which is the making of a false document in order that it may be used as genuine. There is, however, a substantial body of old authority on what constitutes materiality in false statements made in judicial proceedings and this provides some evidence of its importance in this context.[41]

25. Reference to legal systems outside the United Kingdom shows that the concept of materiality has been retained in certain codifications of the law of perjury in "common law" countries. For example, the American Law Institute's Model Penal Code (section 241.1) which is followed in the New York Penal Law of 1965 (section 210 et seq) specifies the materiality of false statements as an element in perjury; and the same approach is to be found in the draft Criminal Code for the Australian Territories 1969 (section 208). On the other hand, the draft Criminal Code Bill of 1879[42] defines the offence of

40. Working Paper No. 26, paras. 16 and 17.

41. See Archbold 37th ed. paras. 3506-3509.

42. s. 119 of the Bill appended to the Report of the Royal Commission on Indictable Offences. B.P.P. 1878-79 [c.2345] xx.169.

perjury by reference to the defendant's knowledge of falsity and intention to mislead the tribunal without any further requirement as to materiality. The same tests are applied by the Canadian Criminal Code 1953/4 (section 112) and the New Zealand Crimes Act 1961 (section 108).

26. In practice, most questions asked in judicial proceedings may be assumed to be relevant and most answers given therein are or may become material, either directly or indirectly (for example, as to credibility or in mitigation of punishment). But, whilst at first sight there seems to be very little scope for the application of the concept of immateriality,[43] there may well be cases where a person knowingly makes a false statement intending to mislead but where the truth of that statement is irrelevant to the issues to be determined by the tribunal.[44] Similarly, in relation to offences under sections 2(1) and 5, all information in the documents to which the sections relate is ex hypothesi information which a person is required or authorised to give, but at the same time, a person may make a statement - for example, as to his address or occupation - which is not material to the purpose for which the information as a whole is required or authorised to be made. Such cases, whether occurring in judicial proceedings or in proceedings under sections 2(1) and 5 of the Act, may well be rare, but we believe that it is necessary to preserve the concept of materiality to safeguard those who would otherwise, at least in theory, be liable to prosecution. We seek opinions on this question.

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43. See Smith and Hogan, Criminal Law 2nd ed. p.507 - "The rule exempting material statements from the sanctions of perjury has been very narrowly construed - so narrowly that illustrations of its operation are not very easy to find."

44. e.g. understatement of a person's age by a few years where this is done out of pure vanity; or mis-statement as to matrimonial status by describing a "common law wife" as "my wife" where this is motivated by a desire to preserve apparent respectability.

(b) Perjury by true statements

27. There is old authority[45] to the effect that it is no defence to a charge of perjury that the statement in question was true if the accused did not believe it to be true, and there is nothing in the 1911 Act to suggest that, if the other elements of the offence are proved, it is a defence to a charge of perjury under, for example, section 1 of that Act that the statement was in fact true. It has been suggested that this is a curious position[46] and in our view this comment is justified. It may be argued that a witness, when sworn, must speak of what he himself believes and that if, under oath, he deliberately lies about material matters he should be convicted even though, unknown to him, the fact to which he deposed with no belief as to its truth was actually true. But perjury is essentially an offence designed to punish the telling of lies which may mislead the court and consequently pervert the course of justice. If, therefore, the court is not misled by a lying statement because in reality it is true in substance, it is doubtful whether any social purpose is served by rendering the maker of such a statement liable to punishment. Furthermore, it seems to us that these cases can rarely arise in practice: as the authorities indicate, instances of prosecution of "true" statements are extremely infrequent, the most recent, apparently, being in 1629. In most situations where punishment might be thought appropriate a witness would in practice tell some other lie; for example, where he deposes as to what he believes to be a false alibi which, unknown to him, is true, the witness would usually state that "I was there" or other words to that effect, which would constitute a false statement even if the person whose alibi he was providing had in fact been there at the time. In our view, therefore, perjury should be confined to the making of material statements which are, in fact, false; but we invite the views of recipients on this point.

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45. Gurney's Case (1612) 3 Co.Inst. 166; 1 Hawkins P.C. c.27(4) s.6; Ockley and Whitlesbye's Case (1622) Palm.294; Allen v Westley (1629) Het.97.

46. Smith and Hogan, Criminal Law 2nd ed. p.509.

(2) The mental element in perjury and offences akin to perjury

(a) The present position

28. The position under the 1911 Act is confusing because of the variety of expressions used either singly or in combination to indicate the required mental element. These expressions may be categorised as follows -

(a) "wilfully makes a [material] statement ... which he knows to be false or does not believe to be true" (sections 1(1) and 2(1));

(b) "knowingly and wilfully makes a false declaration, oath etc. or statement" (section 3(1)(a) and (b));
"knowingly and wilfully makes a [false] statement" (section 5);
"wilfully making or producing etc. any declaration, certificate or representation which he knows to be false or fraudulent" (section 6);

(c) "wilfully uses a false affidavit" (section 2(2));
"wilfully makes ... a false answer, a false certificate or a false declaration" (section 4(1)(a), (b) and (c));

(d) "forbids the issue of any certificate or licence for marriage by falsely representing ... knowing such representation to be false" (section 3(1)(c));

(e) "makes a false statement with intent to have the same inserted in a register" (section 4(1)(d)).

It will be observed that, in the case of offences in category (a), absence of belief in the truth of the statement is expressed as an alternative state of mind to knowledge of its falsity;[47]

47. The New Zealand and Canadian Codes provide no alternative to knowledge of falsity. The American Law Institute's Model Penal Code provides no alternative to absence of belief in truth . The Australian draft Code (Article 208) defines the offence as "intentionally giving false evidence".

those in (b) require knowledge and wilfulness, while those in (c) specify wilfulness only, and the offence in (d) knowledge only. The offence in (e) is exceptional in that it prescribes only a special intent without specific reference to knowledge of falsity.

29. Dicta in early authority[48] support the view that in the case of perjury in judicial proceedings it was sufficient if the person making the false statement did not know at the time whether the statement was true or false. However, section 1(1) of the Act now defines the mental element as the wilful making of a statement which the person making it either knows to be false or does not believe to be true. The authorities indicate that under the 1911 Act the wilful making of such a statement means that it must be made intentionally[49] and with some degree of deliberation. In most circumstances, this must mean that the statement has to be made with an intention that it be taken as true. The basic mental element required in other offences in the 1911 Act (save for the exceptional case of section 4(1)(d) whether expressed in terms of wilfulness or knowledge or both, seems in the result to be similar to the mental element prescribed for the offence in section 1(1). In some instances, however, an additional factor is introduced which requires that the statement or declaration should be made for a special purpose. For example, under section 3(1)(a) the false declaration etc. must be "for the purpose of procuring a marriage" and under section 6(a) it must be made to procure registration for carrying on a vocation.

30. Statutory false statement offences outside the 1911 Act but akin to perjury usually require knowledge of falsity of the statement made. There are, however, an increasing number of offences where recklessness is used as an alternative to knowledge[50] but where no distinction is made as to the penalty

48. R. v. Mawbey (1796) 6 Term. Rep. 619, 637.

49. R. v. Ryan (1914) 24 Cox C.C. 135 (s.4(1)(b)).

50. e.g. Criminal Justice Act 1967, s.90(1): Town and Country Planning Act 1962, s.16(5): Statistics of Trade Act 1947, s.4(3).

provided. The word "recklessness" in the present state of the criminal law is a difficult one, for it is a term of uncertain meaning, its precise connotation depending upon the nature of the particular offence to which it is applied. Thus, in earlier statutory crimes, where recklessness is imported by the use of the word "maliciously", it means that the accused has foreseen that a particular kind of harm may be done and has gone on to take the risk of it;[51] where used in road traffic offences, it connotes gross negligence objectively assessed; and it may also have a particular meaning attached to it by statute.[52] It is, in our view, not clear which meaning of recklessness is attached to its use in the class of offences under discussion.

31. The decision of the Court of Appeal in R. v. Cummerson[53] furnishes a striking exception to the general rule that knowledge of falsity is required in statutory false statement offences outside the 1911 Act. The case was brought under section 235(2) of the Road Traffic Act 1960, which provides that a person is guilty of an offence if he makes a false statement or withholds any material information for the purpose of obtaining the issue, for example, of a certificate of insurance under Part VI of the Act. By contrast, false statements under section 235(1) to obtain the grant of licences under the Act are offences only if made knowingly. The court held that the offence under section 235(2) was one of strict liability. Whether or not the Road Traffic Act offences are superseded by new legislation on perjury and perjury-type offences (as we propose), we consider that the effect of the decision should not be preserved.

(b) Proposed Mental Element

32. A clarification of what we believe to be the mental element required under section 1(1) of the 1911 Act would, in our view,

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51. R. v. Cunningham [1957] 2 Q.B. 396.

52. e.g. Protection of Depositors Act 1963, ss. 1 and 21(1).

53. [1968] 2 Q.B. 534. The case was decided before Sweet v. Parsley [1970] A.C. 132.

provide a satisfactory basis for the definition of the mental element in perjury offences under new legislation. It is, of course, necessary to retain in such a definition the requirement that the statement in question must be made intentionally. But a statement may be made intentionally yet not be intended by its maker to be taken by the court as true; for example, a sarcastic reply to a question which is not intended to be believed may be made "intentionally", yet, if uncorrected by further examination, may stand on the record as the witness's intended reply. We consider that such statements should not be capable of founding a prosecution for perjury and that this result may be achieved by confining this aspect of the mental element to the making of statements intended to be taken as true. This would not, in our view, unduly restrict the scope of statements which could be the subject of prosecutions; for example, a false statement made by a witness as a result of intimidation would nevertheless also be made with the intention that it should be believed by the court.

33. Having regard to our foregoing observations, we consider that the mental element in perjury offences should require the making of a false statement with the intention that it be taken as true together with knowledge of its falsity or an absence of belief in its truth. This would, in our view, provide a satisfactory basis for the definition of the mental element in both perjury in judicial proceedings and the other substantive offences in a new Act. As we have indicated, the basic mental element required in all the substantive offences under the 1911 Act seems to be the same. But even if the law does at present make a distinction between the mental element required under section 1 and that required under the offences contained in sections 2-6, we see no reason for retaining such a distinction. We think it would be wrong, however, to penalise in any of these offences the careless making of a false statement. Upon analysis, the statement in this type of case will usually be made with the intention that it be taken as true but the person making it may be negligent in the sense that he fails to take due care in what he says, for example,

in verification of his facts, whether it be in evidence or in answering a statutory form etc. This degree of fault is, in our view, not sufficient to ground liability in this field: there should for this purpose be knowledge of the statement's falsity or an absence of belief in its truth.

34. We have indicated that, in addition to what we have described as a basic mental element, certain offences under the 1911 Act specify as an element of the offence the purpose or ulterior intent with which the statement in question is made. In some instances, it is difficult to discern the necessity for this extra element. For example, the offence in section 3(1)(a) consists of making a false declaration etc. required under an Act of Parliament in force relating to marriage "for the purpose of procuring a marriage or a certificate or licence for marriage"; but it seems to us that all such declarations made under a statute relating to marriage are likely in any event to be made with this ultimate purpose in mind. Whether or not this is so, we see no necessity for retaining any reference to motive in the offences which we have proposed should replace sections 2-6 of the 1911 Act, bearing in mind our proposal that, to constitute an offence under the provisions, false statements known to be false or not believed to be true must be made with the intention that they be taken as true.

35. It will be clear from the views expressed in the preceding paragraphs that the achievement of uniformity in the mental element in all false statement offences covered by our proposals will result in the elimination of the mental element of recklessness which, as we have indicated, is used as an alternative to knowledge of falsity in certain statutory offences outside the 1911 Act. Our intention is, of course, that all these offences, whether requiring knowledge of falsity or merely the reckless making of false statements, should be replaced by the third of our proposed offences modelled upon section 5 of the 1911 Act, revised and expanded.[54] In the field of perjury we think it wrong in principle that offences of recklessness

54. See para. 15 and, as to the repeal policy, Part IX.

should be equated with offences requiring knowledge or intention without distinction as to the penalty which may be imposed, particularly since the meaning to be attached to the word recklessness in this context is uncertain. If it is desired to punish people for making statements of particular kinds which are in fact false in circumstances where our proposed mental element is absent, the offences should be so defined as to make it clear what lesser degree of fault is required to establish guilt.

(3) Judicial proceedings: their scope, and problems relating to irregularities arising therefrom

(a) The scope of judicial proceedings

36. For the purposes of section 1 of the 1911 Act the expressio "judicial proceedings" includes proceedings before any court, tribunal or person having by law power to take evidence on oath. For example, proceedings before arbitrators (if governed by the Arbitration Act 1950) and before such professional disciplinary committees as those regulating the solicitors' and medical professions fall within the definition, as do the hearing of appeals by the General or Special Commissioners of Inland Revenue and most proceedings before the Lands Tribunal.[55] Where a statement made for the purposes of a judicial proceeding is not made before the tribunal itself but on oath before a person authorised by law to administer an oath and to record or authenticate it, the statement is treated as having been made in a judicial proceeding.[56] By virtue of section 1(4) and (5) judicial proceedings are extended to include statements made by persons lawfully sworn in England for the purpose of judicial proceedings abroad and by persons lawfully sworn abroad under the authority of an Act of Parliament for the purposes of

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55. Power to take evidence on oath is frequently conferred by statute, e.g. in local inquiries under the Local Government Act 1933 (see s.290) and under the Town and Country Planning Act 1962, s.213.

56. s.1(3) of the 1911 Act.

judicial proceedings in England.[57]

37. It has been suggested that the limitation of perjury under section 1 of the 1911 Act to witnesses lawfully sworn (including those who affirm) in judicial proceedings is unnecessarily restrictive and that the offence should be extended to cover -

(a) persons who testify falsely in judicial proceedings where there is power to administer the oath but this is dispensed with;[58] and

(b) those who give false evidence to tribunals, committees and persons authorised to find facts but not to administer the oath.

But in our view the scope of section 1 should not be so extended. We assume, for the purposes of this Paper, that evidence in judicial proceedings will continue to require some kind of solemn promise to tell the truth whether by oath or affirmation as at present or otherwise. So long as this is the case we believe that there is a difference in seriousness between false evidence given on oath or its equivalent and evidence not so given and that the latter should not be the subject of perjury proceedings of this kind. For the same reasons, we consider that persons in case (b) who give false evidence to tribunals etc. not empowered to administer the oath should likewise not be liable.

38. Not only do we think that the cases referred to in the preceding paragraph should not fall within an offence of perjury in judicial proceedings, but we also provisionally take the view that there is no justification for creating a new offence (by, for example, an extension of the revised section 5 offence which we have already proposed) to deal with false statements made in

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57. s.1(4) of the Act applies to the tribunal specified by the German Conventions Act 1955, s.1(3) and to the courts and tribunals specified under the Oaths and Evidence (Overseas Countries and Authorities) Act 1963, s.4(2).

58. It is not uncommon for the oath to be dispensed with in arbitrations under the Arbitration Act 1950; and in local inquiries under e.g. planning legislation, although the Inspector has power to administer the oath, he does not always do so.

these cases. It seems to us that, when the oath is dispensed with, the purpose of this is to enable the tribunal concerned with the relevant enquiry to elicit the information required without the constraints imposed by the threat of criminal offences, whether of a greater or a lesser nature. We invite comment on the view we have taken on this matter.

39. There exists a difference of view as to whether or not the court before whom perjury is alleged to have been committed must be competent to entertain the proceedings during which the perjured evidence is given. Archbold[59] takes the view that the competence of the court is irrelevant, but Professors Smith and Hogan[60] (citing authorities decided under earlier and now repealed legislation) take a different view, although they concede that perjury in the course of proceedings before a court to determine whether it has jurisdiction will constitute perjury It seems clear that, if the relevant proceeding does not fall within the definition of a judicial proceeding given in section 1(2) of the 1911 Act, perjury cannot be committed;[61] if however it does fall within this definition, the incompetence of the court in question to deal with the specific issue upon which false evidence is given would seem to be irrelevant. Whatever view is taken of the existing law, we think that in a new Perjury Act lack of jurisdiction of a prescribed body or person, provided always that that body or person is empowered to and does take evidence on oath, should not preclude prosecution for perjury arising out of the proceedings before that body or person.

40. It is appropriate in the present context to refer to trials of perjury and offences akin to perjury before courts-martial. Perjury by persons subject to Army and Air Force discipline before courts-martial is a specific offence against

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59. 37th ed. para. 3504.

60. Criminal Law 2nd ed. p.505.

61. R. v. Shaw (1911) 6 Cr. App. Rep. 103 in which licensing justices held a preliminary meeting where there was no power to administer an oath.

section 58 of the Army Act 1955 and section 58 of the Air Force Act 1955. These sections create an offence of giving "false evidence" which follows in all material respects the terms of section 1(1) of the Perjury Act 1911. But section 70 in both Acts defines "civil offences" to include all criminal offences punishable under English law. Such offences are made punishable by courts-martial, whether committed in the United Kingdom or elsewhere. Courts-martial are, it seems, empowered to hear, receive and examine evidence on oath[62] and, consequently, trials before them must fall within the definition of judicial proceedings in section 1(2) of the 1911 Act. It appears, therefore, that section 58 in both Acts is unnecessary, perjury being punishable by courts-martial by virtue of section 70. The Naval Discipline Act 1957 contains no provision on the lines of section 58 of the two above-mentioned Acts, but section 42 is similar in wording and effect to section 70 of the two other Service Acts. It appears that trials before naval courts-martial also fall within the definition of judicial proceedings in section 1(2) of the 1911 Act[63] and that such courts are competent to try cases of perjury by section 42. We take the view that the law of perjury should be applied uniformly to all service personnel. We suggest that this objective can best be attained by repealing section 58 of the Army Act and section 58 of the Air Force Act and applying our proposed legislation, through the "civil offence" provision in each Act, to all service personnel.

(b) Irregularities

41. We have indicated that we assume, for the purposes of this Paper, that evidence in judicial proceedings will continue to be given under some kind of solemn promise to tell the truth, whether in the form of an oath or affirmation or otherwise. We further assume that the existing requirements as to statutory declarations, affidavits etc. will, in substance, be preserved.

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62. See ss.93 of the Army Act 1955 and the Air Force Act 1955.

63. See s.60 of the Naval Discipline Act 1957 as amended by the Oaths Act 1961, s.1.

On these bases, the most important questions concerning irregularity which may arise are -

(i) whether the "oath administrator" has power to administer the oath; and

(ii) whether the "oath-taker" has sworn in such a manner that his oath is binding upon him.

These questions are discussed in the two following paragraphs.

42. With regard to the first question, section 16 of the Evidence Act 1851 empowers all persons having by law or by the consent of the parties authority to hear, receive and examine evidence to administer oaths to witnesses legally called before them; and the Statutory Declarations Act 1835 and the Commissioners for Oaths Acts 1889-1891 (as extended by section 4 of the Evidence and Powers of Attorney Act 1943) provide oath-taki powers outside the area of evidence in proceedings. Whilst this legislation is, along with many old statutes dealing with evidence and the like, in need of review,[64] such a review cannot be undertaken solely in the context of an examination of the law of perjury. For this reason we make no proposals for changes in the law relating to the status of the administrator of the oath.[65]

43. So far as the second question is concerned, the difficulties which arose in the case of R. v. Pritam Singh[66] have been overcome by section 1 of the Oaths Act 1961, under which recourse to affirmation in lieu of an oath is available, not only where a witness has no religious belief or where oath-taking is contrary to his religious beliefs (as provided by the Oaths Act 1888), but where it is not reasonably

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64. See the Law Society's Memorandum on Oaths, Affirmations and Statutory Declarations, July 1970.

65. who, for the purposes of s.1(1) of the Act includes any court, tribunal or person having by law power to hear, receive and examine evidence on oath (s.1(2) - and see also para.36).

66. [1958] 1 W.L.R. 143: a case of perjury was withdrawn from the jury where the accused, a Sikh, had given evidence on affirmation because a copy of the "Granth" was not available in court, although the taking of an oath was not contrary to his religious beliefs.

practicable for an oath to be administered in the appropriate form. In this event a person may also be required as well as permitted to affirm. As far as we are aware this change in the law has produced no difficulties and we therefore do not propose any change.

44. Irregularity in oath-taking may also occur when the oath or affirmation is in form incorrectly administered or when a witness who is incompetent is sworn by mistake. Section 15(1) of the 1911 Act is relevant to the first of these situations. This provides that forms and ceremonies in oath-taking are irrelevant if the court or person administering the oath is fully empowered and the oath-taker has accepted them as binding upon him. The giving of evidence in judicial proceedings should, as we have indicated, require some form of promise to tell the truth which the witness regards as binding upon him and we have no evidence that section 15(1) has proved unsatisfactory for this purpose. With regard to the second situation, it was held in R. v. Clegg[67] that a person who is not a competent witness but is sworn by mistake cannot be indicted for perjury. Clegg was decided at a date when an accused was not competent to give evidence in his own defence and the accused, who had been tried by magistrates in his (apparent) absence from court and had tricked them into receiving his evidence by pretending to be his own son, was held not indictable for perjury. Cases may arise today when a husband or wife is sworn but is not a competent witness. It would, in our view, be wrong to make such persons liable for perjured evidence when they are not, as a matter of policy, competent to give evidence at all. We, therefore, propose no changes in the law on these aspects of irregularity.

(4) Problems relating to evidence

(a) Corroboration

45. Section 13 of the 1911 Act, which was confirmatory of earlier authority,[68] requires corroboration for conviction of

67. (1868) 19 L.T. 47.

68. R. v. Muscot (1713) 10 Mod. Rep. 192.

all offences against that Act or of any offence declared by any other Act to be perjury or subornation of perjury, stating that no person may be liable for any such offence "solely upon the evidence of one witness as to the falsity of any statement alleged to be false". In R. v. Threlfall,[69] a case of subornation of perjury under the 1911 Act, this provision was held to mean that proof must be provided either by two witnesses or by one witness with proof of other material and relevant facts substantially confirming his testimony. We are sure that some form of corroboration is required for conviction of perjury in judicial proceedings. We would, however, doubt the need for it in the case of the other offences under consideration. The numerous statutory offences of making false statements for various purposes (such as those in the Road Traffic Act 1960 and in social security legislation) do not impose a requirement of corroboration and it is difficult to understand why, for example, offences under section 5 of the 1911 Act should be differently treated. It may be observed in this connection that graver offences punishable under the Theft Act, such as obtaining property or a pecuniary advantage by deception, which may also involve the commission of an offence akin to perjury,[70] do not require corroboration. Our provisional view is, therefore, that the requirement of corroboration is unnecessary save in the special instance of perjury in judicial proceedings. The entire subject of corroboration in the criminal law is, however, under consideration by the Criminal Law Revision Committee as part of their review of the law of evidence, and before putting forward our final recommendations for changes in section 13 of the 1911 Act, due regard will be paid to the views expressed by the Committee in its Report on the subject.

46. A further question arising in relation to corroboration is whether an admission of perjury made by a defendant to more than one person should constitute corroboration of evidence of the falsity of a statement. It has been suggested that this

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69. (1914) 10 Cr. App. Rep. 112.

70. See para. 19.

may be relevant in three different sets of circumstances -

(a) when a simple admission is made on one occasion to one person;

(b) when such an admission is made to more than one person at the same time; or

(c) when such an admission is made to more than one person but on different occasions.

It seems to us that if there is independent evidence of the falsity of the statement made, any admission may constitute corroboration; but if there is no such evidence it cannot - and ought not to - do so.[71]

(b) The self-contradicting witness

47. It will be recalled that this matter was examined by the Criminal Law Revision Committee in 1964,[72] who reluctantly but unanimously concluded that they should not recommend legislation aimed at punishing people who dishonestly contradicted their own evidence. We believe that the reasons which led the Committee to this conclusion have been and are still generally accepted. The principal difficulty in amending the law, according to the Committee, was that a provision depending on the fact of a contradiction would have to apply whether the false statement in question was the earlier or the later one and it is often the later one which is found to be true; in such cases, therefore, the offence, however drafted, would be committed by making a true, albeit contradictory, statement on oath. More seriously, if self-contradiction constituted perjury, a witness who had given false evidence might be deterred from correcting it. This would hinder, instead of promoting, the interests of justice, and, therefore, defeat the basic aim of the law of perjury. The Committee indicated that self-contradiction by witnesses in criminal proceedings was frequently induced by interference or intimidation by third parties.

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71. An attempt to draw an analogy from corroboration in affiliation proceedings or claims for breach of promise of marriage is, it is thought, misleading.

72. 6th Report of the Criminal Law Revision Committee on Perjury and Attendance of Witnesses (1964) Cmnd. 2465.

Conduct of this kind constitutes the common law misdemeanour of "obstructing or perverting the course of justice" which is under current examination and, if new proposals relating to this offence were to have the effect of reducing the incidence of interference or intimidation, they might to some extent resolve the problem. As at present advised, therefore, we associate ourselves with the conclusion reached by the Committee in 1964 and we do not advance any proposals for reforming the law of perjury in this respect.

(5) Compensation for victims of perjury

48. Unlike compensation for victims of malicious damage or injuries to the person where the criminal act also involves civil liability (such as trespass or conversion), a consideration of the question of compensation for victims of perjury involves primarily the investigation of civil liability for the making of false statements in judicial proceedings and, similarly, civil liability for the making of other false statements. In relation to the former, it was held in Hargreaves v. Bretherton,[73] following earlier authority, that an action for damages will not lie at the suit of a person who alleges that he has been damnified by false evidence given against him in criminal proceedings. A similar question arose in Roy v. Prior where the Court of Appeal struck out a claim for damages based upon the issue of a bench warrant alleged to have been procured by the perjury and malice of the defendant, a solicitor.[74] We think that the general problem posed by these cases - a problem which arises in other statements, such as slanderous statements, made in judicial proceedings - properly depends upon the principle of immunity from suit in respect of statements made in the course of judicial proceedings, which is outside the scope of an examination of the law of perjury. In relation to

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73. [1959] 1 Q.B. 45; see also Marrinan v. Vibart [1963] 1 Q.B.

74. [1970] 1 Q.B. 283. When the case reached the House of Lords (see [1970] 3 W.L.R. 202) the appeal was allowed after the pleadings were amended so as to disclose an allegation of malicious arrest. But the principle of immunity from suit in respect of evidence, including false evidence, given in court was upheld.

compensation for false statements made otherwise than in judicial proceedings, it would be necessary to analyse the type of case in which this problem arises in order to ascertain who the victim of the false statement may be and what he may have suffered. Some of these cases may involve deception and may thus amount to an offence under the Theft Act: and the victim may well be a government department. But we are not aware that any great concern has been expressed about these cases and for this reason, we do not think that they should be dealt with in a revised Perjury Act.

(6) Miscellaneous problems

(a) Corporations

49. A review of the law of perjury would be incomplete without a reference to the widely quoted dictum of Stable J. in R. v. I.C.R. Haulage Co.[75] that a corporation cannot commit perjury. It seems to us that a corporation is capable of committing perjury-type offences, such as offences against section 5 of the 1911 Act or one of the numerous statutory provisions dealing with false statements, and, logically, as Lord Denning seems to suggest in Penn Texas Corporation v. Murat Anstalt,[76] a corporation may be sworn as a witness and may therefore be capable of committing perjury. The criminal liability of corporations is, however, a subject which is under consideration by the Law Commission's Working Party on the General Principles of the Criminal Law.[77] It is, therefore, inappropriate in the present context to advance any specific proposals on this subject.

(b) Time limits for prosecutions

50. Somewhat exceptionally in relation to indictable offences,[78] sections 3 and 4 of the 1911 Act impose time limits for prosecutions on indictment where the charge is made under them.

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75. [1944] K.B. 551, 554.
76. [1964] 2 Q.B. 647, 662.
77. See Law Commission's Working Paper No.17, subject 14.
78. Another exception is to be found in the Treason Act 1695.

Section 3(2) confines the time limit in relation to section 3 offences to those involving a false declaration "for the purpose of procuring any marriage out of the district in which the parties or one of them dwell", the time limit being 18 months from the solemnising of the marriage to which the declaration refers. Under section 4(2) the time limit is 3 years from the commission of any offence under the section. There is also a time limit of 12 months for summary prosecutions under these sections,[79] which we think should remain unaltered in relation to the proposed offence replacing these two sections.

51. Perjury offences in relation to births, marriage and deaths may result in permanent detriment to third parties and, particularly if they warrant prosecution on indictment, are likely to be of a serious nature. It therefore seems anomalous that such offences should be subject to time limits on indictment while other perjury offences are not so subject. It may also be regarded as questionable whether the mere passage of time from the relevant event (the solemnising of a marriage under section 3, or the commission of an offence under section 4) should operate to bar proceedings, even though the offence has remained undetected. If it is appropriate to preserve time limits in this area, a more satisfactory result might be produced by applying a formula, now commonly in use in the case of summary offences, which provides that prosecutions should be instituted within a specified period from the commission of the offence or within a shorter period from the first discovery of the offence.[80] But the Law Commission's Working Party on the Criminal Law has the question of time limits for prosecution for criminal offences under consideration.[81] Pending their examination of the subject,

79. The normal time limit for cases tried in magistrates' courts is 6 months from the commission of the offence (now Magistrate Courts Act 1952, s.104, formerly Summary Jurisdiction Act 184 s.11). But the Criminal Justice Act 1925, s.28, in addition making s.3 offences triable summarily, with a time limit of 12 months, increased the time limit for s.4 summary offences from 6 to 12 months.

80. See e.g. Prevention of Corruption Act 1916, s.3; Road Traffi Act 1960, s.244; Factories Act 1961, s.164(4); Dangerous Dr Act 1965, s.20(2); Trade Descriptions Act 1968, s.19.

81. Working Paper No.17 (Codification of the Criminal Law - General Pr nciples - the Field of Enquiry), subject 5, p.10.

For the reasons given above we propose that there should be no time limit for prosecutions on indictment for the offences at present contained in sections 3(2) and 4.

(c) Venue

52. Section 8 of the 1911 Act provides that perjury offences committed anywhere outside the United Kingdom may be tried and punished in England. This provision relates, in the main, to offences which are treated as perjury in judicial proceedings in England by virtue of section 1(5) of the 1911 Act.[82] We do not propose any alteration in the present position and appropriate procedural provisions will therefore be necessary; these may be formulated in the context of legislation of general application to offences with a foreign element but, if not, the appropriate provision must be included in a new Perjury Act.

(d) Powers of the Court to order prosecutions

53. Section 9 empowers courts to order prosecutions for perjury believed to have been committed in proceedings before them.[83] These powers are limited to perjury in judicial proceedings. As far as we are at present aware, these powers are not now used, the court in such cases taking the course of sending the papers to the Director of Public Prosecutions. We therefore propose that nothing on the lines of section 9 of the 1911 Act should be retained. Still less are we in favour of the provisions to be found in the Criminal Codes of some Commonwealth countries enabling courts to deal summarily with cases of apparent perjury occurring in the course of proceedings before them. Provisions of this kind tend to produce difficulties[84] and are in our view to be avoided.

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82. See para. 2(A)(i) and also the Law Commission's Working Paper No. 29, Territorial and Extraterritorial Extent of the Criminal Law, paras. 31 and 57.

83. A Bill of Indictment (i.e. omission of committal proceedings) may be preferred on such an order (see Administration of Justic (Miscellaneous Provisions) Act 1933, s.2(2)).

84. See e.g. Chang Hang Kiu v. Piggott [1909] A.C. 312 and Subramanian v. The Queen [1956] 1 W.L.R. 456.

(e) Form and substance of indictments for perjury

54. Section 12 deals with the form and substance of indictment for perjury and for offences under section 7 of the Act. Whilst it is important that informations and indictments for perjury should provide the accused with sufficient particulars to enable him to understand the precise nature of the charge against him,[85] we consider that the provisions of the Indictments Act 1915 (section 3) and of the Magistrates' Courts Rules 1968 (Rule 83)[86] are sufficient for this purpose. We therefore propose that nothing on the lines of section 12 of the 1911 Act should be retained.

(f) Certificate of proceedings

55. Section 14 provides for proof by certificate of the proceedings in respect of which perjury or the procuring or subornation of perjury is alleged to have been committed. Pending codification of the law of evidence (or the consolidation of existing statutory provisions operative in that field) we think that it is necessary to retain a provision on the lines of this section.

(g) Savings

56. Section 16 deals with three matters -

(i) It preserves liability to forfeiture or disqualification or any penalty other than imprisonment or fine under other Acts (section 16(1)).[87]

(ii) It expressly states that the Act does not apply to a child's statement not on oath given in evidence under section 38 of the Children and Young Persons Act 1933 (section 16(2)); but "perjury" in such a

85. See R. v. Aylesbury Justices ex p. Wisbey [1965] 1 W.L.R. 3

86. S.I. 1968 No.1920.

87. This seems to operate now only on corrupt practices under s.70(4) of the Representation of the People Act 1949 and on s.188 of the Companies Act 1948.

statement makes a child liable on summary conviction under section 38(2) of the 1933 Act to be dealt with as if he had been summarily convicted of an indictable offence punishable in the case of an adult with imprisonment.

(iii) It preserves any alternative statutory liability not specifically repealed by the Act or provided after the date of enactment for making false statements punishable on summary conviction and provides that any such statutory liability excludes prosecution on indictment (section 16(3)).[88]

We think it will be necessary to retain provisions on the lines of section 16(1) and (2). Under our proposals relating to the repeal policy of a new Act, it may be possible to eliminate any savings for prior statutes, unlike the present section 16(3). Furthermore, our proposals will be framed in a way which we hope will eliminate the need, at least in the overwhelming majority of cases, to include alternative false statement offences in future legislation. But whether this will prevent future proliferation depends upon future legislative restraint. We would hope, however, that after a new Act has been passed new offences involving the making of false statements would be created only in the most exceptional cases.

VII JURISDICTION

57. All offences under the Perjury Act 1911 are triable on indictment, but offences against sections 1 and 7(2) may not be tried at Quarter Sessions. Offences against sections 3 and 4 and 5(b) and (c), when tried on indictment, together with offences against section 2, are not triable at courts of Quarter

88. The operation of the Repeal Schedule to the 1911 Act left only some minor revenue offences (R. v. Bradbury and Edlin [1921] 1 K.B. 562) and perjury in proceedings abroad under s.6 of the Piracy Act 1850 and s.22 of the Slave Trade Act 1873.

Sessions with restricted jurisdiction. Offences against sections 3 and 4 are also subject to summary prosecution and offences against section 5(a), which may be tried at all courts of Quarter Sessions, may also be tried summarily with the consent of the accused.

58. Offences of making false statements created by other legislation are frequently triable summarily only; but there are some cases where the maximum term of imprisonment which may be imposed on summary conviction exceeds three months,[89] so that the accused may elect trial by jury under the provisions of the Magistrates' Courts Act 1952 section 25(1). There are also many such offences which may be prosecuted either on indictment or summarily.

59. Whilst we consider that offences of perjury within the framework of the 1911 Act should in principle be indictable, and, in particular, that perjury in judicial proceedings should be triable only at Assizes,[90] we think that (subject to preserving the accused's right to elect jury trial) there is a strong case for extending summary jurisdiction with the consent of the accused to all offences within our proposed classes (b) and (c) in paragraph 21. The proposed class (b) offences are in any event "hybrid" offences under sections 3 and 4 of the Act and offences under section 5(a) are triable summarily with the consent of the accused. There seems to be no reason for not treating offences against section 5(b) and (c) in the same way. This would cover our class (c) offences. For the same reasons, we think that the absorbtion of false statement offences under other legislation should be accompanied by the attraction to them of the jurisdictional provision proposed for class (c) offences, so making all such offences indictable or triable summarily with the consent of the accused. We do not consider that there is a case for creating a purely summary

89. e.g. Road Traffic Act 1965, s.235 (4 months) and s.236 (6 months).

90. Subject to reforms in the structure of the courts following the recommendations of the Royal Commission on Assizes and Quarter Sessions (1969) Cmnd. 4153.

offence since false statements penalised by the criminal law are extremely variable in their consequences and in their gravity.[91]

VIII PENALTIES

60. Substantive offences under the 1911 Act may be divided into three groups on the basis of the penalties imposed -

(i) Offences punishable with up to 7 years' imprisonment (sections 1, 2, 3 and 4);

(ii) offences punishable with up to 2 years' imprisonment (section 5);

(iii) offences punishable with up to one year's imprisonment (section 6).

Fines without any specified limit may be imposed as an alternative or in addition to imprisonment. It is only upon summary trial of offences under sections 3 and 4 that a maximum fine (£100) is provided.

61. Following our proposed classification of perjury and perjury type offences into three classes by reference to their character and gravity[92] we would propose the following maximum penalties for conviction upon indictment -

Class (a) offences - 7 years' imprisonment and/or a fine
Class (b) offences - 5 years' imprisonment and/or a fine[93]
Class (c) offences - 2 years' imprisonment and/or a fine

Upon summary conviction of an offence under Classes (b) and (c) we would propose a maximum sentence of 6 months' imprisonment and/or a fine of £400.

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91. This policy is similar to that of the Theft Act 1968 under which only one summary offence of taking was created - borrowing a pedal cycle without the owner's consent (s.12(5)).

92. See para. 21.

93. It is relevant to note here that bigamy, which an offence of class (b) may conceal, carries a maximum of 7 years' imprisonment.

IX REPEAL POLICY

62. We mentioned at the outset of this Paper that the 1911 Act repealed offences relating to perjury in some 130 Acts of Parliament and there is, in our view, no reason why a new Perjury Act should not aim at a similar large-scale repeal. We have indicated in part V of this Paper, dealing with the policy and scope of a new Perjury Act, that the new Act would be designed not only to replace the 1911 Act, but to eliminate in certain respects the overlap which exists between offences under section 6 of the Act and other statutory provisions and the similar overlap between offences under section 5 relating to the making of false statements and the large number of similar offences in other statutes. The duplication of offences in this way, as we pointed out in our Working Paper on Forgery,[94] may complicate penalties, create jurisdictional anomalies, clutter the Statute Book and even (as was shown by Cummerson's case)[95] render persons liable to conviction in circumstances in which they could not have been convicted under the principal statutory provision. The new formulation we have proposed for the offences at present contained in section 5 would provide a framework wide enough to cover those special offences under other legislation which hitherto could not be brought within its scope, together with other similar offences which it would, in our view, be appropriate to repeal.[96]

63. The Appendix, which is far from exhaustive, illustrates the variety of offences which a new Act based on our proposals would cover and which in most cases it would probably be appropriate to repeal. Two matters are worthy of note in relation to this Appendix -

(a) It indicates that some of the more recent offences relating to the making of false

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94. Working Paper No. 26 para. 70.

95. [1968] 2 Q.B. 534. See para. 31.

96. Such as certain forms of cheating the revenue - see para. 7(a)

statements outside the Perjury Act 1911 penalise the reckless making of false statements, as well as the making of false statements known to be false. It is our view that, subject to any special exceptions, these provisions should be repealed, notwithstanding that the offence which we propose should replace them excludes recklessness from the mental element.[97]

(b) It further indicates that some recent offences outside the Perjury Act 1911[98] penalise the making of false or misleading statements. It has been held[99] that a statement is false in a material particular if it conveys a false impression and misleads by what it conceals, omits or implies. We consider, therefore, that these offences are fully covered by our proposals and we think they can be repealed.

64. A repeal policy of the scope indicated would, as in the case of forgery, require that certain of the repeals should be limited specifically to England and Wales. This would be the case if, for example, the offences in section 235 of the Road Traffic Act 1960 were to be brought within the scope of a new Perjury Act, since these offences, like many other offences of a regulatory nature, apply both to England and Scotland.

65. Our repeal policy is not, of course, designed to eliminate all overlaps in the law since, as we have indicated, other offences, such as those under the Theft or Forgery Acts, while penalising false statements, treat them from a viewpoint different from that of perjury.

66. Reference should finally be made to perjury at common law. As the Introduction to this Paper indicates, it is highly

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97. See para. 35.

98. e.g. Town and Country Planning Act 1962, s.16(5).

99. See R. v. Kylsant [1932] 1 K.B. 442 (C.C.A.), but cf. the Companies Act 1948, s.46(a).

doubtful, according to the authorities, whether there ever existed an offence of perjury at common law independent of the offences created by various early statutes. It was not mentioned in the 1911 Act. We, therefore, consider it unnecessary to make specific provision for its abolition in a new Act.

X PROVISIONAL PROPOSALS

67. We propose that there should be a Bill to repeal and replace not only the Perjury Act 1911 but also other statutory provisions relating to perjury and offences akin to perjury. The precise terms of this Bill would be settled after consultation with those interested, whose comments for this purpose we are seeking on the proposals in this Working Paper. We hope that such a Bill would be of a comprehensive character and be enacted as a codification of the law of perjury in advance of the proposed criminal code.

68. Our proposals may be summarised under the following headings -

A. Substantive offences

We propose that there be 3 classes of substantive offences -

(1) Perjury in judicial proceedings, replacing the offence created by section 1 of the 1911 Act.

(2) False statements or representations in relation to births, marriages and deaths, replacing the offences created by sections 3 and 4 of the 1911 Act.

(3) False statements made on oath otherwise than in judicial proceedings, in a statutory declaration, or in any oral or written statement required or authorised by, under,

or in pursuance of an Act of Parliament, replacing the offences created by sections 2, 5 and 6 of the 1911 Act (paragraph 21).

B. Ancillary offences

We do not propose any change in the substance of the existing law relating to the offences contained in section 7 of the 1911 Act (paragraph 22).

C. The Substance of the offence

We propose that -

(1) only statements which are in fact false, and

(2) only statements which are material

should form the subject of offences under a revised law (paragraphs 26 and 27).

D. The Mental element

The mental element in relation to all the proposed offences should consist of the making of a statement intending that it should be taken as true with knowledge of its falsity or an absence of belief in its truth (paragraph 33).

E. Time limits

The time limits imposed by sections 3(2) and 4(2) of the 1911 Act in regard to trial on indictment for the offences at present contained in sections 3(2) and 4(1) should be abolished (paragraph 51).

F. Jurisdiction

Perjury in judicial proceedings should be an indictable offence triable only at Assizes. Other offences in our second and third classes

should be triable on indictment or summarily with the consent of the accused (paragraphs 57-59).

G. Penalties

We propose that class (1) of the new offences should be punishable on indictment with a maximum of 7 years' imprisonment and/or a fine. Class (2) offences should be punishable on indictment with a maximum of 5 years' imprisonment and/or a fine. Offences in class (3) should be punishable on indictment with a maximum of 2 years' imprisonment and/or a fine. On summary conviction we propose a maximum of 6 months' imprisonment and/or a fine of £400 for offences in classes (2) and (3) (paragraph 61).

H. Repeals

In addition to the repeal of the Perjury Act 1911 we propose the repeal, subject to any justifiable exceptions, of all offences penalising the making of statements which are false, being statements authorised or required to be made by, under or in pursuance of an Act of Parliament and including false statements to obtain registration for carrying on a vocation (paragraphs 62-66).

I. Miscellaneous matters

(1) Venue. A provision on the lines of section 8 of the 1911 Act will be required to deal with extraterritorial offences (paragraph 52).

(2) Certificate of proceedings. We propose to retain a provision on the lines of section 14 of the 1911 Act, to allow for the proof by certificate of judicial proceedings in the course of which perjury or the procuring or subornation of perjury are alleged to have been committed (paragraph 55).

(3) Savings. Legislation on the lines of section 16(1) and (2) of the 1911 Act will be required for the purpose of retaining any forfeiture or disqualification provision, and to except statements by a child not on oath under section 38 of the Children and Young Persons Act 1933 (paragraph 56).

XI SPECIAL QUESTIONS FOR CONSIDERATION

69. Certain aspects of our proposals require special consideration and we set out below in question form those matters on which comment by the recipients of our Paper is particularly requested.

(1) Should offences of false statements or representations relating to births, marriages and deaths be separated from other false statement offences for the purpose of the imposition of penalties, and is the proposed penalty right (paragraphs 16-17)?

(2) Is it right that the element of materiality should be retained in the offence of judicial perjury and in offences akin to perjury covered by our proposals (paragraph 26)?

(3) Is it right, as we suggest, that the mental element in relation to all false statement offences covered by our proposals should be confined to the making of a statement intending that it should be taken as true with knowledge of the falsity of that statement or an absence of belief in its truth, and should not include the reckless making of a false statement (paragraph 33)?

(4) Should the principal substantive offence (perjury in judicial proceedings) deal only with witnesses committing that offence in the course of judicial proceedings as at present defined in section 1 of the 1911 Act (as we propose): or should unsworn statements in other proceedings authorised by statute be treated as being within the scope of the principal substantive offence or, indeed, subject to any criminal proceedings at all (paragraphs 37-38)?

(5) Are we right in our view that the requirement of corroboration should be abolished in relation to all offences within the scope of our proposals other than the offence of perjury in judicial proceedings (paragraph 45)?

(6) Are we right in our view that the making of two contradictory statements on oath should not, in the absence of other evidence as to falsity, attract criminal sanctions (paragraph 47)?

(7) Is it right, as we suggest, that there should be no special time limits for the prosecution on indictment of any of the offences covered by our proposals (paragraph 51)?

APPENDIX

EXAMPLES OF PERJURY AND KINDRED OFFENCES IN CURRENT LEGISLATION WITH MAXIMUM PENALTIES*

Nature of Legislation	Maximum Penalty
1. Agriculture and Fisheries	
Agricultural Wages Act 1948	
s.12(7)(c) and (d) - producing wage sheets or other documents false in a material particular to an officer acting in exercise of powers under s.12(3).	3 months and £20
Sea Fish Industry Act 1951	
s.11(3) - furnishing information required under the Act or Schemes under the Act which is false in a material particular.	3 months and £100
Cereals Marketing Act 1965	
s.17(3) - making a statement false in a material particular when furnishing information for a scheme under s.16, or making a false entry in a document required to be produced for such a scheme.	3 months and £100 indictment 2 years and fine
Sea Fisheries Act 1968	
s.3(1) - making a false statement in information required with knowledge of or recklessness as to its falsity.	£400
2. Armed Forces	
Army Act 1955	
s.58(1) - giving of false evidence - offence similar to s.1(1) of Perjury Act 1911.	court-martial - 2 years
s.62 - making, or making entries in or signing service documents which are false in a material particular, or altering such a document so that it is false in a material particular.	court-martial - 2 years
Air Force Act 1955	
s.58(1) - similar to s.58 of the Army Act 1955. s.62 - similar to s.62 of the Army Act 1955.	

* Except where otherwise stated, the maximum penalties relate to summary conviction. Where no alternative to summary conviction is indicated, the offence is summary only.

Naval Discipline Act	
s.35 - making or signing a muster or other official document which is false in a material particular or altering such document so that it is false in a material particular.	court-martial - dismissal with disgrace
Companies	
Companies Act 1948	
s.173(3) - making a statement false in a material particular in information required by B.O.T. as to persons interested in shares or debentures.	6 months and £500
s.438 - false statements in a return, report, certificate, balance sheet or other document required by or for the purpose of specified provisions of the Act.	4 months and £100 indictment 2 years and fine
Companies Act 1967	
s.84 - furnishing false information either knowingly or recklessly, under a requirement of Part II of the Act or specified provision of the 1948 Act.	3 months and £200 indictment 2 years and fine
Courts and Litigation	
County Courts Act 1959	
s.186(2) - endorsement by court officer of false statement on copy of summons or other process.	6 months and £50 indictment 2 years
Criminal Justice Act 1967	
s.89 - wilful making of a statement known to be false or not believed to be true in written statements tendered in evidence in criminal proceedings. Perjury Act 1911 to have effect as if section were contained in that Act.	indictment 2 years and fine
s.90 - making of statement known to be false, or reckless false statement, as to means.	4 months and £100
Housing and Local Government	
House Purchase and Housing Act 1959	
s.1(4) - knowing or reckless false or misleading statements in connection with information requested by Chief Registrar of Friendly Societies.	3 months and £100 indictment 2 years and £500

Town and Country Planning Act 1962	
s.16(5) - issue of certificate under section containing knowing or reckless statement false or misleading in a material particular.	£100
s.215(3) - knowingly making a mis-statement in information required under the section.	£400 indictment 2 years and fine
Town and Country Planning Act 1968	
sch. 5 para. 2(2) - issue of certificate containing statement known to be false or misleading in a material particular or reckless issue of a certificate containing such a statement.	£100
Control of Office and Industrial Development Act 1965	
s.10(3)(a) - making a false statement in information required by notice under s.10 with knowledge of or recklessness as to its falsity.	3 months and £100 indictment 2 years and fine
Land Commission Act 1967	
s.81 - making a statement false in a material particular in serving a notice or giving information required to be served of given under Part III of the Act or in an application under s.60.	3 months and fine indictment 2 years and fine
s.93 - false information in claim for compensation.	3 months and fine indictment 2 years and fine
Licensing	
Licensing Act 1964	
s.53 - knowingly making a statement false in a material particular in application for club's registration or recklessly signing such application containing such a statement.	3 months and £100
Gaming Act 1968	
s.23(6) - making a statement false in a material particular with knowledge of or recklessness as to its falsity to obtain certificate of approval.	£200
Merchant Shipping	
Merchant Shipping Act 1894	
s.67 - false statements concerning title of ship in declaration made to registrar.	6 months and £100 indictment 2 years

s.130 - false report of character required to be made by s.129.	6 months and £100 indictment 2 years
s.282 - making false declaration of survey or passenger steamer's certificate.	6 months and £100 indictment 2 years

8. Personal Registration and Status

Non-parochial Registers Act 1840

s.8 - wilful insertion in register or records of false entry of birth, death or marriage etc. or wilful giving of any false certificate or certifying writing to be an extract from any register or record knowing them to be false in any part.	indictment 7 years

Burial Act 1857

s.15 - wilful insertion in registry book of any false entry of burial, or wilful giving of false certificate or certifying a writing to be a copy or extract of such registry book, knowing the same to be false.	indictment 7 years

Commonwealth Immigrants Act 1962

s.4(3)(a) and (c) - making, to an immigration officer or other person lawfully acting, any return, statement or representation which person making it knows to be false or untrue.	6 months and £100

9. Professional Registration

Architects Registration Act 1931

s.12 - false representations to obtain registration.	summary £50

Midwives Act 1951

s.2(7) - wilful making of a falsification in a matter relating to a roll.	indictment 12 month

Pharmacy Act 1954

s.18 - registrar falsifying any matter relating to the register or certificates.	indictment 12 month

Medical Act 1956

s.41(9) - registrar falsifying any matter relating to the register.	indictment 12 mont

Dentists Act 1957

s.16(7) - registrar falsifying any matter relating to the register.	indictment 12 mont

Nurses Act 1957

s.29 - wilfully making a falsification in a matter relating to the register, roll or list.	indictment £100

Public Revenue

Customs and Excise Act 1952

s.301 - making, signing or delivering any declaration, notice, certificate etc. or making any statement in answer to a question put, when that answer is required by or under any enactment, being a document or statement made for any "assigned" matter, which is untrue in any material particular.	indictment 2 years and £500
s.302 - falsification of any document required by or under any enactment relating to an "assigned" matter, or altering it after issue.	indictment 2 years and £500

Road Traffic

Road Traffic Act 1960

s.235(1) - knowingly making false statement to obtain licence etc.	6 months and £50
s.235(2) - making false statement to obtain insurance certificate etc.	as above
s.236 - issue of certificates known to be false in a material particular.	6 months and £100

Road Traffic (Amendment) Act 1967

s.1(7) - knowingly making a false statement in a certificate etc. under s.1.	4 months and £100

Transport Act 1968

s.83 - making documents required to be made under the Act knowing them to be false, or, with intent to deceive, altering any such document.	£200 indictment 2 years

Social Security

National Assistance Act 1948

s.52(1) - making false statement or representation knowing it to be false, to obtain benefit.	3 months and £100

National Insurance Act 1965

s.93(1)(c) - knowingly making false statement or representation or producing information knowing it to be false in a material particular, to obtain benefit.	3 months and £100

Family Allowances Act 1965	
s.9(a) - furnishing information knowing it to be false in a material particular etc., to obtain allowance	3 months and £50
Ministry of Social Security Act 1966	
s.29 - making a statement or representation knowing it to be false, to obtain benefit or avoid liability under the Act.	3 months and £50

3. Trade and Industry

Slave Trade Act 1873	
s.22 - wilfully giving false evidence in a slave court (as defined).	punishable as perjury
Atomic Energy Act 1946	
s.4 - knowingly or recklessly making an untrue statement in any return made in pursuance of a notice served under s.4.	3 months and £100 indictment 5 years and £500
Coal Industry Nationalisation Act 1946	
s.58 - producing documents required to be produced by regulations under the Act, knowing them to be false in a material particular, or furnishing any information so required, knowing it to be false in a material particular.	3 months and £100 indictment 2 years and £500
Statistics of Trade Act 1947	
s.4(3) - knowingly or recklessly making a statement false in a material particular in a return or estimate required under the Act (similarly s.10(4)).	3 months and £50 indictment 2 years and £500
Electricity Act 1947	
s.61(1) - making a statement false in a material particular when giving information, making a claim or giving notice under the Act.	3 months and £100 indictment 2 years and £500
Gas Act 1948	
s.68(1) - similar to s.61(1) of Electricity Act.	3 months and £100 indictment 2 years and £500
Mines and Quarries Act 1954	
s.161 - false entries in books, registers etc. required by the Act to be kept.	3 months and £100 indictment 2 years and £200

Restrictive Trade Practices Act 1956

s.16(2) - making a statement or furnishing a document known to be false in a material particular or wilfully altering the same, where they are required to be furnished under Part I of the Act.	3 months and £100 indictment 2 years and fine

Building Control Act 1966

s.9(4) - producing etc. a document false in a material particular in information required by a notice under s.33, or producing for examination in accordance with such notice a document wilfully falsified.	3 months and £100 indictment 2 years and fine

Iron and Steel Act 1967

s.42 - furnishing information false in a material particular in compliance with a requirement or regulation, or supplying a document etc. differing in a material particular from a document etc. required to be supplied.	3 months and £100 indictment 2 years

Miscellaneous

Piracy Act 1850

s.6 - false evidence in proceedings under the Act, deemed to be perjury.	punishable as perjury

Explosives Act 1875

s.81 - signing any document required under the Act which is false in a material particular.	indictment 2 years

Friendly Societies Act 1896

s.88 - making etc. an entry, erasure or omission from a balance sheet or document etc., required to be sent etc. for the purposes of the Act with intent to falsify or to evade the provisions of the Act.	£50

Exchange Control Act 1947

sch. V Part I para. 4(b) - making a statement false in a material particular in information required for the purposes of the Act.	3 months and £500 indictment 2 years and £1000

Coast Protection Act 1949

s.26(2) - mis-statement in information required by the coast protection authority under s.26(1).	£5

Legal Aid and Advice Act 1949	
s.15(1)(b) - in seeking or receiving legal aid, knowingly making a false statement or representation when furnishing information required by the regulations under the Act.	4 months and £100
Mental Health Act 1959	
s.125(2) - making a false entry or statement in any application, report or other document required or authorised to be made for any purposes of the Act.	6 months and £100 indictment 2 years and fine
Building Societies Act 1962	
s.112 - wilfully making a false statement in documents specified by the section.	3 months and £200 indictment 2 years and fine
Emergency Laws (Re-enactments and Repeals) Act 1964	
s.10 - with intent to deceive, producing, furnishing etc. any order etc. given under Part I, or any book, account etc. which is false in a material particular.	3 months and £100 indictment 2 years and £500
Redundancy Payments Act 1965	
s.33(3) - statement false in a material particular in information required by a notice under s.33, or producing for examination in accordance with such notice a document wilfully falsified.	3 months and £100 indictment 2 years and fine
Medicines Act 1968	
s.45(6) (8) - making statement known to be false in a material particular.	£400 indictment 2 years and fine